

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. S1-4:17-cr-00100NAB
	)	
HENRY R. RYCHLIK, JR.	)	
WILBUR-ELLIS COMPANY	)	
COLLIN McATEE, and	)	
DIVERSIFIED INGREDIENTS, INC.	)	
	)	
Defendants,	)	

**OBJECTION TO ENTRY OF APPEARANCE**

COMES NOW Diversified Ingredients, Inc, by and through counsel, and objects to the Entry of Appearance filed on behalf of the United States, and states:

On December 1, 2017 the United States filed the Government's Entry of Appearance on behalf of Thomas Larson, Charles S. Birmingham and Gilbert C. Sison. Thomas Larson is the acting United States Attorney for the Western District of Missouri. The body of the pleading identifies Charles S. Birmingham and Gilbert C. Sison as "Assistant United States Attorneys for said District". The signature block of the pleading identifies both attorneys as "Special Attorney to the United States Attorney General"

Both Mr. Birmingham and Mr. Sison are Assistant United States Attorneys for the Eastern District of Missouri and previously entered their appearances in this matter as such. Both still office in the Eastern District of Missouri, are paid from the funds of the Eastern District of Missouri, are assigned cases in the Eastern District of Missouri and take supervision

from supervisors of the Eastern District of Missouri, including the United States Attorney, Jeffrey Jensen.

Defendant Diversified Ingredients, Inc. had previously scheduled a review of this matter with a supervisor in the Eastern District of Missouri, however said meeting was cancelled by the Government. Mr. Birmingham subsequently informed counsel for Diversified Ingredients, Inc. that the office of the Eastern District of Missouri had been recused in this matter, that it would be assigned to the Western District of Missouri and any review would be handled by that office.

Based on statements by Mr. Birmingham, it is Diversified Ingredients, Inc.'s belief that the "office of the Eastern District of Missouri" has been recused from this matter. Both Mr. Birmingham and Mr. Sison are still Assistants in that office and take direction from the same individuals who have been recused from this matter. Allowing both attorneys to remain in this office raises the appearance of a conflict of interest, if not an actual conflict of interest.

Counsel for Diversified Ingredients, Inc. intended to bring this matter to the attention of the Court at the scheduled status conference on December 7, 2017; however, the conference was continued at the request of the Government. Counsel had no opportunity to object to the continuance.

WHEREFORE, Diversified Ingredients, Inc. requests that this Court deny the Entry of Appearance of Charles S. Birmingham and Gilbert C. Sison and disqualify said attorneys from any involvement in the matter. As this issue is time sensitive, Diversified Ingredients, Inc. requests that a conference to discuss the disqualifications be held at the Court's earliest convenience to discuss if any discovery on this issue may be allowed and whether briefing is required or permitted. Counsel suggests that the original status conference be reinstated for 10:00 a.m., December 7, 2017.

Respectfully submitted,

Thompson Coburn, LLP

By /s/ Gordon L. Ankney  
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Attorney for Defendant Diversified Ingredients, Inc

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 5, 2017, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Gordon L. Ankney  
GORDON L. ANKNEY #24803MO